

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

FILED BY UW D.C.

05 JUL 11 PM 4:09

CAROLYN JOHNSON,

)

Plaintiff,

)

v.

)

NO. 04-2794 Ma/An

JO ANNE B. BARNHART,
Commissioner of Social Security,

)

Defendant.

)

THOMAS M. GOULD
CLERK, U.S. DISTRICT COURT
WD OF TN MEMPHIS

ORDER GRANTING APPLICATION FOR ATTORNEY'S FEES

Before the Court is Plaintiff's Motion for Award of Attorney's Fees Pursuant to the Equal Access Justice Act ("EAJA") filed on June 1, 2005. United States District Judge Samuel H. Mays, Jr. referred this matter to the Magistrate Judge for determination. For the reasons set forth below, the Motion is **GRANTED**.

Under the EAJA, a court may award "reasonable" attorney's fees and expenses to the "prevailing party in any civil action brought by or against the United States or any agency or any official of the United States . . ." 28 U.S.C. § 2412(a) & (b). The amount of fees awarded under the EAJA "shall be based upon prevailing market rates for the kind and quality of the services furnished except that . . . attorney fees shall not be awarded in excess of \$125 per hour unless the court determines that an increase in the cost of living or a special factor, such as the limited availability of qualified attorneys for the proceedings involved, justifies a higher fee." 28 U.S.C. §2412(d)(2)(A). Fees under the EAJA are to be "adequate to attract competent counsel,

but which do not produce windfalls.” *Coulter v. State of Tenn.*, 805 F.2d 146, 149 (6th Cir. 1986) (internal quotations omitted). Thus, the Sixth Circuit applies the “principle that hourly rates for fee awards should not exceed the market rates necessary to encourage competent lawyers to undertake the representation in question.” *Coulter*, 805 F.2d at 149. The prevailing party has the burden of demonstrating the reasonableness of the requested rate. *Blum v. Stenson*, 465 U.S. 886, 896 n.11 (1984).

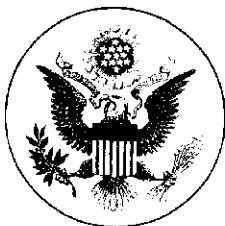
In this case, Plaintiff has requested the Court award Plaintiff attorney’s fees in the amount of \$2,100.00. Plaintiff’s attorney has based this amount on charging a rate of \$125.00 per hour for 16.8 hours of work. The Court concludes that Plaintiff’s request is reasonable. Moreover, in Response to the Motion, the Government states that it “does not contest the award of attorney fees” and that “Defendant respectfully requests that the Court enter an order awarding fees in the amount of \$2,100.00. Defendant further requests that the EAJA fees be paid directly to Plaintiff’s counsel.” Therefore, for good cause shown, the Motion is **GRANTED**. Plaintiff should be awarded \$2,100.00 in attorney’s fees.

IT IS SO ORDERED.



S. THOMAS ANDERSON
UNITED STATES MAGISTRATE JUDGE

Date: July 08, 2005



Notice of Distribution

This notice confirms a copy of the document docketed as number 23 in case 2:04-CV-02794 was distributed by fax, mail, or direct printing on July 12, 2005 to the parties listed.

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Honorable Samuel Mays
US DISTRICT COURT